

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>VICKI TIMPA, et al.,</b>	§	
	§	
<b>Plaintiffs,</b>	§	<b>Civil Action No. 3:16-CV-03089-N</b>
	§	
<b>vs.</b>	§	
	§	
<b>DUSTIN DILLARD, et al.,</b>	§	
	§	
<b>Defendants,</b>	§	
	§	
<b>v.</b>	§	
	§	
<b>JOE TIMPA</b>	§	
	§	
<b>Intervenor.</b>	§	

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**DPD DEFENDANTS’ MOTION  
FOR LEAVE TO DEPOSE INCARCERATED WITNESS**

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TO THE HONORABLE COURT:

Defendant Dustin Dillard, Danny Vasquez, Raymond Dominguez, and Kevin Mansell (“DPD Defendants”) move pursuant to Federal Rule of Civil Procedure 30(a)(2)(B) for leave to depose the incarcerated witness Frederick Johnson. In support of their motion, the DPD Defendants state the following:

1. According to Federal Rule of Civil Procedure 30(a)(2)(B), “A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2)...if the deponent is confined in prison.”
2. The DPD Defendants wish to depose Frederick Johnson. According to the Texas Department of Criminal Justice inmate search website, Mr. Johnson is currently serving a 15-year

sentence within the Texas Department of Criminal Justice following a conviction for a 2018 aggravated robbery with a deadly weapon. His projected release date is June 29, 2035.

3. During the evening of Mr. Timpa's death, Mr. Johnson met Mr. Timpa outside the Gas Pipe nightclub and traveled with him to the New Fine Arts adult entertainment store. Mr. Johnson observed Mr. Timpa's psychotic behavior and has knowledge of Mr. Timpa's behavior, activities, stressors, and suspected use of illegal drugs and alcohol during the hours immediately preceding his death. This information is relevant to two disputed core issues: (1) the cause of Mr. Timpa's death, and (2) damages. The DPD Defendants need to depose Mr. Johnson to obtain the relevant information known to him and to preserve his testimony in the event he is unexpectedly unavailable at the time of trial.

4. Mr. Johnson is incarcerated at Buster Cole State Jail in Bonham, Texas, approximately 80 miles northeast of Dallas. Given the travel and bureaucratic process required for Mr. Johnson's deposition, the DPD Defendants also request leave to take the deposition after the close of discovery on February 10, 2023, on a date agreed upon by the parties' attorneys and the jail staff.

5. Counsel for the Intervenor has indicated that the Intervenor is opposed to the requested relief because Mr. Johnson "has no information relevant to any issue in this lawsuit." Counsel for Plaintiffs indicated that they oppose the motion but declined to give a reason for their opposition.

6. This motion is filed well in advance of the February 10, 2023 deadline by which discovery must be completed.

WHEREFORE, Defendants Dustin Dillard, Danny Vasquez, Raymond Dominguez, and Kevin Mansell respectfully ask the Court to grant their motion, enter an order granting them leave to depose the incarcerated witness Frederick Johnson and to do so after the close of the discovery period if necessary, and award any further necessary relief that is consistent with this motion.

Respectfully submitted,

CITY ATTORNEY OF THE CITY OF DALLAS

Christopher Caso  
City Attorney

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Attorneys for Defendants Dustin Dillard, Kevin  
Mansell, Danny Vasquez, and Raymond  
Dominguez

#### **CERTIFICATE OF CONFERENCE**

Plaintiffs' counsel Geoff Henley and Intervenor's counsel Susan Hutchison indicated by email on February 1, 2023, that their respective clients oppose the relief requested in this motion.

/s/ Lindsay Wilson Gowin  
Senior Assistant City Attorney

**CERTIFICATE OF SERVICE**

I certify that on February 1, 2023, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Lindsay Wilson Gowin  
Senior Assistant City Attorney